

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE: TESTOSTERONE REPLACEMENT
THERAPY PRODUCTS LIABILITY LITIGATION

MDL No. 2545
Master Docket Case No. 1:14-cv-01748
Honorable Matthew F. Kennelly

This document applies to:

MASTER SHORT-FORM COMPLAINT
FOR INDIVIDUAL CLAIMS

1. Plaintiff(s), Bryon McKee,

state(s) and incorporate(s) by reference the portions indicated below of Plaintiffs' Master Long Form Complaint on file with the Clerk of the Court for the United States District Court for the Northern District of Illinois in the matter entitled *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545. Plaintiff(s) [is/are] filing this Short Form Complaint as permitted by Case Management Order No. 20 of this Court for cases filed directly into this district.

2. In addition to the below-indicated portions of the Master Long Form Complaint adopted by the plaintiff(s) and incorporated by reference herein, Plaintiff(s) hereby allege(s) as follows:

VENUE

3. Venue for remand and trial is proper in the following federal judicial district: United States District Court for the Middle District of Florida

IDENTIFICATION OF PLAINTIFF(S)
AND RELATED INTERESTED PARTIES

4. Name and residence of individual injured by Testosterone Replacement Therapy product(s) ("TRT"): Bryon McKee; 5549 New Cambridge Road
Orlando, FL 32810

5. Consortium Claim(s): The following individual(s) allege damages for loss of consortium: N/A

6. Survival and/or Wrongful Death claims:

- a. Name and residence of Decedent when he suffered TRT-related injuries and/or death:

N/A

- b. Name and residence of individual(s) entitled to bring the claims on behalf of the decedent's estate (e.g., personal representative, administrator, next of kin, successor in interest, etc.)

N/A

**CASE SPECIFIC FACTS
REGARDING TRT USE AND INJURIES**

7. Plaintiff currently resides in (city, state): Orlando, FL

8. At the time of the TRT-caused injury, [Plaintiff/Decedent] resided in (city, state): Orlando, FL

9. [Plaintiff/Decedent] began using TRT as prescribed and indicated on or about the following date: 1/2006

10. [Plaintiff/Decedent] discontinued TRT use on or about the following date: 10/2014

11. [Plaintiff/Decedent] used the following TRT products:

- ☐ AndroGel
☐ Testim
☐ Axiron
☒ Depo-Testosterone
☐ Androderm
☐ Testopel
☐ Fortesta

- ☐ Striant
☐ Delatestryl
☐ Other(s) (please specify):

12. [Plaintiff/Decedent] is suing the following Defendants:

- | | |
|---|---|
| <input type="checkbox"/> AbbVie Inc. | <input type="checkbox"/> Endo Pharmaceuticals, Inc. |
| <input type="checkbox"/> Abbott Laboratories | <input type="checkbox"/> Auxilium Pharmaceuticals, Inc. |
| <input type="checkbox"/> AbbVie Products LLC | <input type="checkbox"/> GlaxoSmith Kline, LLC |
| <input type="checkbox"/> Unimed Pharmaceuticals, LLC | |
| <input type="checkbox"/> Solvay, S.A. | <input type="checkbox"/> Actavis plc |
| <input type="checkbox"/> Besins Healthcare Inc. | <input type="checkbox"/> Actavis, Inc. |
| <input type="checkbox"/> Besins Healthcare, S.A. | <input type="checkbox"/> Actavis Pharma, Inc. |
| | <input type="checkbox"/> Actavis Laboratories UT, Inc. |
| <input type="checkbox"/> Eli Lilly and Company | <input type="checkbox"/> Watson Laboratories, Inc. |
| <input type="checkbox"/> Lilly USA, LLC. | <input type="checkbox"/> Andia, Inc. |
| <input type="checkbox"/> Acrux Commercial Pty Ltd. | |
| <input type="checkbox"/> Acrux DDS Pty Ltd. | |
| <input checked="" type="checkbox"/> Pfizer, Inc. | |
| <input checked="" type="checkbox"/> Pharmacia & Upjohn Company Inc. | |

Other(s) (please specify): _____

13. [Plaintiff/Decedent] is bringing suit against the following Defendant(s), who did not manufacture TRT and only acted as a distributor for TRT manufacturers:

N/A

a. TRT product(s) distributed: _____

b. Conduct supporting claims: _____

14. TRT caused serious injuries and damages including but not limited to the following:

Pulmonary Embolism

15. Approximate date of TRT injury: 1/18/2014

**ALLEGATIONS, CLAIMS, AND THEORIES OF RECOVERY
ADOPTED AND INCORPORATED IN THIS LAWSUIT**

16. Plaintiff(s) hereby adopt(s) and incorporate(s) by reference as if set forth fully herein, all common allegations contained in paragraphs 1 through 466 of the Master Long Form Complaint on file with the Clerk of the Court for the United States District Court for the Northern District of Illinois in the matter entitled *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545.

17. Plaintiff(s) hereby adopt(s) and incorporate(s) by reference as if set forth fully herein, the following damages and causes of action of the Master Long Form Complaint on file with the Clerk of the Court for the United States District Court for the Northern District of Illinois in the matter entitled *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545:

- ☒ Count I – Strict Liability – Design Defect
- ☒ Count II – Strict Liability – Failure to Warn
- ☒ Count III – Negligence
- ☒ Count IV – Negligent Misrepresentation
- ☒ Count V – Breach of Implied Warranty of Merchantability
- ☒ Count VI – Breach of Express Warranty
- ☒ Count VII – Fraud
- ☒ Count VIII – Redhibition
- ☒ Count IX – Consumer Protection
- ☒ Count X – Unjust Enrichment
- ☐ Count XI – Wrongful Death

- ☐ Count XII – Survival Action
 - ☐ Count XIII – Loss of Consortium
 - ☒ Count XIV – Punitive Damages
 - ☒ Prayer for Relief
 - ☒ Other State Law Causes of Action as Follows: Negligence Per Se - Violation
of 21 U.S.C. §§ 331(a) & 352
-

JURY DEMAND

Plaintiff(s) demand(s) a trial by jury as to all claims in this action.

Dated this the 10th day of November, 2015.

RESPECTFULLY SUBMITTED
ON BEHALF OF THE PLAINTIFF(S),

/s/ Brandon L. Bogle

Brandon L. Bogle, Esquire
Levin, Papantonio, Thomas, Mitchell,
Rafferty & Proctor, P.A.
316 S. Baylen Street, Suite 600
Pensacola, FL 32502
850-435-7042
850-436-6042 (facsimile)

Attorney for the Plaintiff